



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

**Dispute Codes:** MNDC, MNSD and FF

### **Introduction**

This application was brought by the landlords seeking a Monetary Order for loss of rent, advertising costs and recovery of the filing fee for this proceeding, and authorization to retain the security deposit after the tenant did not move in to the rental unit as agreed.

### **Issue(s) to be Decided**

This application requires a decision on whether the landlords are entitled to monetary compensation as claimed.

### **Background and Evidence**

This tenancy was set to begin on November 15, 2009 at a rent of \$750 per month and the tenant paid a security deposit of \$375 on October 31, 2009.

During the hearing, the parties confirmed the following facts which are pertinent to the present application:

1. On October 26, 2009, the tenant responded by email to the landlords' advertisements offering their basement suite for rent;

2. After viewing the suite and several exchanges of emails, the parties agreed to a tenancy to begin on November 15, 2009 and the tenant paid a security deposit of \$375 on October 31, 2009;
3. The landlords informed a number of other applicants that the suite had been rented;
4. On November 7, 2009, the tenant advised the landlords that she would not be able to proceed with the tenancy.
5. The landlords were able to find a new tenant for December 1, 2009 by spending \$33.20 on advertising (receipts provided).

On November 17, 2009, the tenant wrote to the landlords requesting return of the security deposit and the landlords made application to retain it against their losses on November 19, 2009.

## **Analysis**

Section 16 of the *Act* provides that: "The rights and obligations of a landlord and tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the tenant ever occupies the rental unit."

Section 7 of the *Act* states that, if either party to a rental agreement suffers a loss due to the non compliance of the other with the rental agreement or the legislation, the non complying party must compensate the other for the loss.

I find that the rental agreement was made on payment of the security deposit and that by not taking occupancy and paying the rent on November 15, 2009, the tenant was in breach of the rental agreement and is responsible for the landlords' losses arising from that breach.

Therefore, I find that, including recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off, the tenant owes to the landlords an amount calculated as follows:

Loss of rent November 15 to November 30, 2009	\$375.00
Cost of advertising to find new tenant	33.20
Recovery of filing fee	<u>50.00</u>
Sub total	\$458.20
Less retained security deposit (No interest due)	- 375.00
<b>TOTAL</b>	<b>\$ 83.20</b>

## Conclusion

In addition to authorization to retain the security deposit, the landlords' copy of this decision is accompanied by a Monetary Order for \$83.20, enforceable through the Provincial Court of British Columbia, for service on the tenant if the award is not paid within a reasonable time.

March 25, 2010